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Thus, the tobacco companies could deduct $368 billion from their taxable income and reduce their tax payments by about $123 billion, assuming we maintain a corporate tax rate of about 33 percent during the course of this agreement. In effect, this would reduce the tobacco companies' payment by $123 billion and force the taxpayers to pick it up instead. That is a full third of the compensation payment to States.

I believe that is wrong. I believe it is unfair. The basis of this whole agreement is the idea that tobacco companies bear some responsibility for the illnesses caused by tobacco and nicotine and should help pick up the tab.

I agree with that. I also feel strongly that ordinary taxpayers are not responsible for the illnesses caused by tobacco, and they should not have to put up $123 billion to pay for the treatment.

Is there a solution to the problem? Yes, there probably is. We should look into the issue, and I believe that the Senate Finance Committee should hold hearings on the tax implications of this settlement.

But already it seems clear that these payments are not necessary business expenses. They are, rather, belated compensation for the health effects of tobacco. I do not think they should be tax deductible. I will explore every means, including legislation if necessary, to make sure this agreement is fair to taxpayers.

REFORM OF THE ENDANGERED SPECIES ACT AND CONSERVATION EASEMENTS

Mr. BAUCUS. Mr. President, on another matter, I wish to inform the Senate that we in the Environment and Public Works Committee are working very diligently to come up with a good solid reform of the Endangered Species Act.

In this respect, I say that Senator KEMPTHORNE, the chairman of the relevant subcommittee, is working very hard with Senator REID, the ranking member of the relevant subcommittee, along with myself and Senator CHAFEE to reform the current Endangered Species Act, including many provisions, such as involving the States much more deeply than they are now, making sure there is peer review by scientific communities, and a host of other changes.

But one change I would like to mention at the moment is an idea in the bill introduced by the Senator from Idaho which very simply states that conservation easements that protect habitat for endangered species should be tax deductible.

I raised this issue in the Finance Committee markup a week ago explaining to members of the committee that this was a new idea, a good idea which would give landowners incentives so that they themselves can protect their own land in a way to avoid problems under the act. But I did not push for the amendment in committee because we were not quite ready for the provisions of the amendment and did not have an appropriate way to pay for it which is called for under the Reconciliation Act.

Senator KEMPTHORNE has introduced a statement today basically calling this matter to the attention of the full Senate, and most particularly to the attention of the conferees.

I say to Senator KEMPTHORNE and others that are interested that I will work diligently, in cooperation with the Senator from Idaho, to see if we can find a way to get that provision passed.

Essentially, Mr. President, we will very soon have a bipartisan Endangered Species Act reauthorization reported out of the Environment and Public Works Committee. I think Senators will be happy in the main with the provisions of this agreement. I compliment, again, Senator KEMPTHORNE, Senator REID, and others who are working, on a very bipartisan basis, to reach this result.

Again, I thank my colleagues for their interest in the tax incentive portion of it because I think that is an important, integral part of this solution.

COMPLIMENTING SENATOR ROTH

Mr. BAUCUS. Mr. President, I very much thank again publicly my chairman of the committee, Senator ROTH, who has heard many, many compliments on his leadership of the committee. I have complimented him many times already. Other Senators have complimented him many, many times. But one cannot compliment him too often because he did a terrific job in coming up with a bipartisan bill, as we know, that passed the Senate not too long ago by a vote of 80 to 18—quite an accomplishment.

Mr. ROTH. If the distinguished Senator from Montana would just yield for a comment. You do not have to stop complimenting. As far as I am concerned, I could sit here all day and listen to it.

Mr. BAUCUS. It may be deserved.

Mr. ROTH. You are very kind. I must say, I think we have all had a great experience of working together. I feel very strongly that this spirit of bipartisanship should continue. I know the Senator from Montana is of the same school as I am.

Mr. BAUCUS. Absolutely. Absolutely.

Mr. ROTH. So have a good recess.

Mr. BAUCUS. You too, Mr. Chairman.

APPOINTMENT BY THE SECRETARY OF THE SENATE

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101-509, his appointment of James F. Blumstein, of Tennessee, to the Advisory Committee on the Records of Congress.

ENCRYPTION POLICY REFORM

Mr. LOTT. Mr. President, I rise today to thank the junior Senator from Montana for his leadership on the important issue. Senator BURNS has led a valiant effort to address an area that I believe is in great need of reform. He has championed the cause of allowing citizens to protect their information through readily available strong information security technology. In the 104th Congress, he introduced legislation that set the stage for our reform efforts in this Congress. Again, last week, Senator BURNS offered a compromise version of his original bill before the Commerce Committee, but unfortunately this measure did not pass. I hope that now we can go through a process to bring all parties together, industry and Government, to try to relieve some of the problems created by current law. We did not accomplish everything that I wanted in Committee, but I am confident that there is still time to improve this legislation. I want to congratulate Senator BURNS and others on the committee like Senator ASHCROFT and Senator DORGAN who have taken the time to understand the technology and to attempt to effectively guide us through these difficult issues.

Mr. President, the demand for strong information security will not abate. Individuals, industry, and governments need the best information security technology to protect their information. The Administration's policy and the McCain-Kerrey bill allow export of 56-bit encryption, with key recovery requirements. How secure is 56-bit encryption? That question was answered the day before the Senate Commerce Committee acted. Responding to a challenge, a secret message encoded with 56-bit encryption was decoded in a brute force supercomputing effort known as the "Deschall Effort." The message that was decoded said "Strong cryptography makes the world a safer place."

Now that 56-bit encryption has been cracked by individuals working together over the Internet, information protected by that technology is vulnerable. The need to allow stronger security to protect information is more acute than ever.

Mr. BURNS. Mr. President, I appreciate the comments of the majority leader. I too was opposed to the legislation approved by the committee last week, but know that we still have the opportunity to pass a meaningful bill that will allow American industry to compete with the rest of the world in the global information marketplace. I believe that we can pass a bill that will not compromise our national security or law enforcement interests. As I sat through the markup last week, it occurred to me that we had allowed the issue of encryption to be framed as the

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issue of child pornography or gambling. I want to be sure that all parties understand that the reform of encryption security standards is not related to these issues.

I have often said that encryption is simply like putting a stamp on an envelope rather than sending a postcard because you don't want others to read your mail. Encryption is simply about people protecting their private information, about companies and governments protecting their information, from medical records to tax returns to intellectual property from unauthorized access. Hackers, espionage agents, and those just wanting to cause mischief must be restrained from access to private information over the Internet.

When used correctly, encryption can enable citizens in remote locations to have access to the same information, the same technology, the same quality of health care, that citizens of our largest cities have. Perhaps most importantly, it is about ensuring that American companies have the tools they need to continue to develop and provide the leading technology in the global marketplace. Without this leadership, our national security and sovereignty will surely be threatened.

Mr. DORGAN. Mr President, I would like to make a few comments to associate myself with the comments of the majority leader and the Senator from Montana. These two gentlemen have demonstrated great leadership on this issue, and I especially admire their dedication to educate our colleagues about this important issue. I believe that at the bottom line, if we allow this critical technology to be stifled in the United States I believe our national interests will be severely undermined. We must do our best to allow U.S. companies to compete in the world marketplace, and do so without in any way undercutting our national security interests.

I believe that the bill that was reported last week out of the Commerce Committee does not achieve those objectives. In fact, I fear that bill may be nothing more than an attempt to ensure that no bill passes in Congress this year. This would be a victory for the administration, which has rigorously resisted changes to their outdated and obsolete policies. I must say that I try to support the administration on many issues, but on this issue, I have found that their arguments and policies simply do not withstand scrutiny.

And, Mr. President, I was an original sponsor of the Burns bill and I worked very hard with the Senator to help shape the consensus position that was rejected by the committee. I would like to take a few moments to set the record straight about the true differences between the McCain-Kerrey bill and the Burns' approach.

The bill that passed the committee certainly represents a victory for those within the administration opposed to any relaxation of export controls in this area. In fact, it may be a perfect bill from their standpoint. It allows them to begin the process of domestic control while actually freezing exports to a weak enough level of encryption technology that was actually decoded by amateurs the very day before. And it is very unclear to me exactly where the McCain-Kerrey reaches a compromise position.

The Burns' bill however, merely allows that we would allow export of 56-bit encryption immediately, but we would establish a process for understanding the level of encryption that is generally available throughout the world. That review process would include panels and advisory boards consisting of government and industry representatives equipped to determine the security strength of particular software that is available in the world market. Our belief was that it was in the national interest for American software companies to maintain leadership in this area. The very notion that we would let foreign companies get a head start on new technology while forcing American companies to come to a government entity to plead for the right to catch up was troubling enough to both Senator BURNS and myself. But, we agreed to this compromise because we thought it represented the appropriate middle ground.

As the majority leader reminded us, we did not accomplish what many of us had hoped that we would while in Committee, but we will continue to work within the process to improve the legislation. I remain committed to encryption reform and will do everything possible to try to educate my colleagues about this issue.

Mr. ASHCROFT. Mr. President, I would like to add my comments on this important issue. For over 2 years, I have participated in Commerce Committee hearings to learn more about on encryption and the technology issues that it encompasses. Last week, I voted for Senator BURNS' substitute and was disappointed when it was not approved by the committee.

I am concerned about the tone of the discussion at last week's markup. It appeared to me that many on the committee are seeking ways to outlaw the Internet. We are all troubled by any type of child pornography or gambling on the Internet. These are not areas where any member of Congress, any software or hardware vendor, or any member of the general public I know, argues for anything less than the strictest legal provisions. These matters are distasteful and wrong, but even if we eliminated the Internet, we would not eliminate these offensive concerns.

As I said during the markup, we all know that cameras are used in child pornography, but we don't talk of outlawing photography. And, we also know that rental vehicles are often used in terrorist activities, but we don't make it illegal to rent a car or truck.

Mr. President, it appears to me that at the most fundamental level, this debate is about the relationship of our citizens to our Government. We all must take steps to insure that the rights of our citizens are not violated. Our citizens should be able to communicate privately, without the Government listening in—that is one of our most basic rights.

We have to be careful to ensure our law enforcement can have just the necessary amount of access and then only in a manner consistent with our Constitution.

I am persuaded that a number of the new provisions in the McCain-Kerrey bill are not necessary.

I believe that many of the provisions will not even succeed at achieving the end they seek. For example, a false choice has been offered indicating that if the U.S. continues to enforce the export policy on encryption that is currently in place, 40 bit and with special permission up to 56-bit, then law enforcement could apprehend terrorists, stop illegal gamblers and arrest pornographers. However, this argument assumes that these criminals cannot find stronger encryption elsewhere than in the United States. As has been shown several times, this assumption is false. Robust encryption is available. Germany, Japan, and the United Kingdom all have companies, such as Siemens, Nippon and Brokat, that have developed and promote 128 bit encryption. Last week even the supporters of the administration's approach, as expressed in the current legislation, admitted that criminals who want the robust encryption can find access and use strong encryption in their current dealings. This issue is a red herring.

Moreover, the administration announced Wednesday that they will allow the export of 128-bit encryption for bank transaction use involving bank software in an apparent admission of the vulnerability of the 56-bit strength. Also, the administration has continued to tell us during the hearings on encryption and in private meetings with the FBI and NSA, that 128-bit use outside the United States would end in terrible consequences, and now 128-bit use outside the U.S. is being advocated. We should remember that the Burns compromise only wanted to export 128-bit with key recovery for trusted parties. The administration now advocates 128-bit length encryption without any key recovery device, a position that goes beyond the Burn's compromise, which they opposed. My point, Mr. President is that this debate must change. We cannot continue to focus on the key length since these standards become obsolete on a daily basis. We need to focus on allowing trustworthy parties to use robust encryption, not necessarily to sell as encryption but to use in their transactions and in the development of software and hardware.

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No nationwide key recovery system, or a new licensing requirement for certificate authorities should be brought to the floor without thorough examination, analysis and understanding. We must further study the impact of these provisions well before this bill is brought to the Senate floor.

Mr. LOTT. Mr. President, I too would like to work with my colleagues to improve the McCain-Kerrey bill before it is brought to the floor. I would like to ask my good friend from Missouri to pay special attention to this bill while it is under consideration by the Judiciary Committee. I know that I can count on him to work hard to improve this important legislation.

Mr. ASHCROFT. Mr President: I want to indicate my willingness to continue to work on this issue. As the majority leader well knows, I am privileged to serve on the Senate Judiciary Committee where we will address this issue after the July recess. I pledge to work with members on that Committee and with other interested Senators and the leader to try to move a bill in that committee that will capture the essence of Burns substitute.

Mr. LOTT. It remains my hope that we can work with Chairman MCCAIN and other members of the Committee to produce a bill that more of us can support. We need to recognize that American industry will have increased difficulty of competing in the international marketplace unless we provide some real reform. It is as if we erected a 30-foot wall between the United States and the rest of the world. The problem is that in today marketplace, American industry only has a 10-foot ladder while their foreign competition has a 35-foot ladder. Foreign firms are able to climb the wall while our American industry faces an insurmountable obstacle. This is both short-sighted and wrong.

If we follow our current path, we will rue the day when we allowed our policies drive world leadership of the important information security business to shift to Germany, Russia, Japan or China. I fully intend to work toward a legislative solution that will help solve the problem while protecting American security interests. We need to create the mechanisms that will allow American companies to have the same sized ladders that the rest of the world can use.

Mr. President, we all appreciate the legitimate law enforcement and national security issues involved in this debate. Our national security and law enforcement agencies need to work with industry to ensure that our interests are protected. I remain convinced that we can do this in a way that insures that our national security and sovereignty remains protected.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 26, 1997, the Federal debt, stood at $5,338,210,524,473.68. (Five trillion, three hundred thirty-eight billion, two hundred ten million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents)

One year ago, June 26, 1996, the Federal debt, stood at $5,118,104,000,000. (Five trillion, one hundred eighteen billion, one hundred four million)

Five years ago, June 26, 1992, the Federal debt, stood at $3,946,126,000,000. (Three trillion, nine hundred forty-six billion, one hundred twenty-six million)

Ten years ago, June 26, 1987, the Federal debt, stood at $2,292,475,000,000. (Two trillion, two hundred ninety-two billion, four hundred seventy-five million)

Twenty-five years ago, June 25, 1972, the Federal debt, stood at $425,367,000,000 (Four hundred twenty-five billion, three hundred sixty-seven million) which reflects a debt increase of nearly $5 trillion—$4,912,843,524,473.68 (Four trillion, nine hundred twelve billion, eight hundred forty-three million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents) during the past 25 years.

WHERE ARE THE WIPO TREATIES

Mr. HATCH. Mr. President, for some time now the Judiciary Committee has been working on issues dealing with copyright protection on the Internet and the copyright rights of performers and sound recordings. The Digital Performance Right in Sound Recordings Act that I introduced was passed in 1995, and my National Information Infrastructure Copyright Protection Act was the subject of two hearings in the last Congress. The NII Copyright Protection Act was superseded by the Clinton administration's effort to deal with many of the same issues in the context of two new treaties, the World Intellectual Property Organization [WIPO] Copyright Treaty and the WIPO Performances and Phonograms Treaty.

These treaties were concluded successfully in Geneva in December 1996. Since then, I have been eagerly awaiting the administration's draft of implementation legislation. To date, I have not received such legislation, and the Foreign Relations Committee has not received the treaties. I know that the administration shares the respect that I have for copyright, and I commend Bruce Lehman, the Commissioner of Patents and Trademarks, for the splendid work that he did on negotiating the treaties, but I am concerned that 6 months have passed without draft legislation for the committee to work on.

Both WIPO treaties were completed in record time, because there was a sense of urgency about the vulnerability of U.S. copyrighted works to massive infringement by means of Internet access and about insufficient international copyright protection for sound recordings. Where is this sense of urgency now? Nothing has changed. Our copyright industries are still threatened.

In 1994, copyright-related industries contributed more than $385 billion to the American economy, or more than 5 percent of the total gross domestic product. This represents more than $50 billion in foreign sales, which exceeds every other leading industry sector except automotive and agriculture in contributions to a favorable trade balance. From 1977 to 1994, these same industries grew at a rate that was twice the rate of growth of the national economy, and the rate of job growth in these industries since 1987 has outpaced that of the overall economy by more than 100 percent.

Yet these same industries lost an estimated $18 to $22 billion to foreign piracy in 1995. The film industry alone estimates that its losses due to counterfeiting were in excess of $2.3 billion for that year, even though full-length motion pictures are not yet available on the Internet. The recording industry estimates its annual piracy losses in excess of $1.2 billion, with seizures of bootleg CDS up some 1,300 percent in 1995. These figures promise to grow exponentially as technology provides for quicker, more perfect digital reproduction, which is exactly why timely ratification of the WIPO treaties is so important..

I urge the administration to complete its work and to send the treaties to the Senate. I would like to get the treaties ratified and implementation legislation passed during this session of Congress. That goal may already be unachievable because of administration delay. I hope not. I'll try my best.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2382. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, thirteen rules relative to the establishment of class E airspace (RIN2120-AA66), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

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